

AN ANALYSIS AND CASE STUDY ABOUT JUDICIAL ACTIVISM

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INTRODUCTION : JUDICIAL ACTIVISM

Judicial activism has always been a source of heated debate, particularly in the light of recent developments in this regard. In the last few years, with several Controversial decisions, the Supreme Court The Judges, as well as the numerous High Courts Judges, have again that has always been well as triggered very strong a debate. However, the word "Judicial activism" actually Connotes is What the Still a mystery. Under the Indian Constitution, State is under the prime obligation to ensure justice, liberty, equality and fraternity in the country. In this sense, the Indian Judiciary has been defender of the guardian and Indian Constitution. Considering its Constitutional duty, the Indian Judiciary has played the active role now, whenever necessary, in protecting the individual's fundamental right against the State's midst, excessive and equal actions/inaction. Therefore, the idea of judicial activism is the restraint. Exact Judicial activism all the two terms opposite of judicial and Judicial restraint the used to describe philosophy and motivation, behind some Judicial decision.

Objective (s) :

1. Some reasons for judicial activism include the failure of the executive and legislatures to act
2. The violation of basic human rights
3. The misuse and abuse of some of the provisions of the Constitution
4. To develop further Understanding of theories and Concept Covered under this article,
2. To develop a practice of learning new aspects and develop habit of the research a Subject related to the Subject.

Expected Outcomes / Conclusion :

Judicial activism happens when the courts have power to review the State action. The Concept of Judicial activism found its root English Concept of equity and The roof of Judicial is very difficult to Indian Judiciary rights' find for a has adopted the very some activism India. Have India very long time an orthodox approach to Concept of Judicial Activism scattered and stray incidents of Judicial taken place time to time in But, they did not come to

fore as Concept was unknown to India. the history of Judicial activism back to 1893, when Justice the very However, the Com Mehmood of the be traced Allahabad High Court delivered a dissenting judgment which sowed the seed of judicial activism in India. Exploitation and Corruption have been part of the maises were the existing political Structure. oppressed beyond imagination by the unbridled Muscle, Media actions of the money power administerial power. Judicial policymaking and Can be either activity in support of or on Choices opposition to, legislative and executive policy But the latter is generally referred to as judicial activism. The nature of the true Judiciary activism is the making of judgment mood and time of the times.

Under the Judiciary policy activism promotes of social the Cause articulates concepts such as An activist Change as freedom, equality of Justice Judge triggers the legal system and makes it a crucial part of the socio-economic cycle.

According to Black's Law Dictionary Judicial Activism is described as a 66 to a theory of

Judicial decision making by which Judge allow their personal opinion on public policy, among factors, to direct other their decisions, usually with the to this theory appear 'adherent implication that to find Constitutional Violations and are willing to disregard precedents" Judicial Heaving activism is when the Court, after both sides, position Conventional move from their of decision-making to the position of the legislative and make new legislation, new rules and new policies.

Important cases of Judicial Activism

Social which was The first major case of judicial intervention by action litigation was of Bihar Gurt Hussianara Khatoon VS State of Bihar. In 1980, in the form of a written petition under Article 21, some law professors exposed the barbarous Condition of detention Protective Home, followed by a lawsuit against Delhi Women's Home filed by Student and a Social worker. At the Agra a Delhi Law School In 1967 in Golak Nath V. State of Punjab the Supreme Court held that the of the Constitutional sights of part I Indian Constitution even though there Which Could not be modified, Only was no such limitation in included a resolution of in both House of Article 368 a two-third majority Parliament.

Subsequently, In the well-known Case of Keshvananda Bharti, two years before the declaration of emergency, the Apex court ruled that the government had no right to interfere with the Constitution and to Change its fundamental Characteristics.

In Keshvananda Bharti vs State of Kerala, 13 Bench the Golak Nath decision but held that the fundamental framework Could not be changed. The point to remembered, however, is that there is no reference in Article 368 that the Basic of the Supreme Court overruled of the Constitution has amended Structure Could not be modified. Accordingly, the decision Article 36d. A significant number of decisions of the Supreme Court of India, in which it has played activist position, refer to Article 21 of the Indian

Constitution, and therefore are dealing it separately.

In simple terms, Judicial activism can be seen the political role played by the Judiciary as ones. Such as much like the other two executive and legislative Judicial activism is justified on different) ground, the fall of government, which require the judiciary to provide assistance and policies for Public welfare. The definition of activism is differ from Community to Community. Judicial restraint also known as Judicial Independence. Words used to stress the "right position of the Courts",

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